

§ 3822.2

§ 3822.2 Compensation to surface rights holder.

Any party who obtains the right, whether by license, permit, lease, or location, to prospect for, mine, or remove the minerals after the land shall have been segregated or disposed of under the Act, will be required to compensate the holder of the surface rights for any damages that may be caused to the value of the land and to the tangible improvements thereon by such mining operations or prospecting, and may be required by an authorized officer, as to mining claims, or by the terms of the mineral license, permit or lease, to post a surety bond not to exceed \$20,000 in amount to protect the surface owner against such damage, prior to the commencement of mining operations.

[35 FR 9746, June 13, 1970]

Subpart 3823—Prospecting, Mineral Locations, and Mineral Patents Within National Forest Wilderness

SOURCE: 35 FR 9746, June 13, 1970, unless otherwise noted.

§ 3823.0-3 Purpose.

This subpart sets forth procedures to be followed by persons wishing to prospect on lands within National Forest Wilderness, and special provisions pertaining to mineral locations and mineral patents within National Forest Wilderness.

§ 3823.0-5 Definition.

As used in this subpart the term *National Forest Wilderness* means an area or part of an area of National Forest lands designated by the Wilderness Act as a wilderness area within the National Wilderness Preservation System.

§ 3823.1 Prospecting within National Forest Wilderness for the purpose of gathering information about mineral resources.

(a) The provisions of the Wilderness Act do not prevent any activity, including prospecting, within National Forest Wilderness for the purpose of gathering information about mineral

43 CFR Ch. II (10-1-12 Edition)

or other resources if such activity is conducted in a manner compatible with the preservation of the wilderness environment. While information gathered by prospecting concerning mineral resources within National Forest Wilderness may be utilized in connection with the location of valuable mineral deposits which may be discovered through such activity and which may be open to such location, attention is directed to the fact that no claim may be located after midnight, December 31, 1983, and no valid discovery may be made after that time on any location purportedly made before that time.

(b) All persons wishing to carry on any activity, including prospecting, for the purpose of gathering information about mineral or other resources on lands within National Forest Wilderness should make inquiry of the officer in charge of the National Forest in which the lands are located concerning the regulations of the Secretary of Agriculture governing surface use of the lands for such activity.

§ 3823.2 Mineral locations within National Forest Wilderness.

(a) Until midnight, December 31, 1983, the mining laws of the United States and the regulations of this chapter pertaining thereto, including any amendments thereto effective during such period, shall to the same extent as applicable before September 3, 1964, extend to National Forest Wilderness, subject to the provisions of such regulations as may be prescribed by the Secretary of Agriculture pursuant to section 4(d)(3) of the Wilderness Act.

(b) All mineral locations established after September 3, 1964, and lying within the National Forest Wilderness, shall be held and used solely for mining or processing operations and uses incident thereto, and such locations shall carry with them no rights in excess of those rights which may be patented under the provisions of § 3823.3 of this chapter.

(c) All persons wishing to carry on any activity under the mining laws on lands within National Forest Wilderness, on or after September 3, 1964, should make inquiry of the officer in charge of the National Forest in which the lands are located concerning the

Bureau of Land Management, Interior

§ 3825.1

regulations of the Secretary of Agriculture governing activities to be performed thereon in connection with the locations of mining claims.

§ 3823.3 Mineral patents within National Forest Wilderness.

(a) Each patent issued under the U.S. mining laws for mineral locations established after September 3, 1964, or validated by discovery of minerals occurring after September 3, 1964, and lying within National Forest Wilderness shall, in accordance with the provisions of section 4(d)(3) of the Wilderness Act:

(1) Convey title to the mineral deposits within the patented lands, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the National Forest rules and regulations;

(2) Reserve to the United States all title in or to the surface of the lands and products thereof; and

(3) Provide that no use of the surface of the patented lands or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as expressly provided in the Wilderness Act.

(b) Each patent to which the provisions of this section are applicable shall contain the express condition that the use of the patented lands shall be subject to regulations prescribed by the Secretary of Agriculture as referred to in § 3823.2 of this subpart and that the patented lands shall be held open for reasonable inspection by authorized officers of the U.S. Government for the purpose of observing compliance with the provisions thereof.

§ 3823.4 Withdrawal from operation of the mining laws.

Effective at midnight, December 31, 1983, subject to valid rights then existing, the minerals in lands within National Forest Wilderness are withdrawn from the operation of the mining laws by virtue of the provisions of section 4(d)(3) of the Wilderness Act.

Subpart 3825—Tohono O'Odham (Formerly Papago) Indian Reservation, Arizona

§ 3825.0-3 Authority.

(a) The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended by the Act of August 28, 1937 (50 Stat. 862; 25 U.S.C. 463), revokes departmental order of October 28, 1932, which temporarily withdrew from all forms of mineral entry or claim the lands within the Tohono O'Odham Indian Reservation and restores, as of June 18, 1934, such lands to exploration, location and purchase under the existing mining laws of the United States.

(b) The regulations in this part apply to entries made prior to May 27, 1955. By virtue of the Act of May 27, 1955 (69 Stat. 67; 25 U.S.C. 463) mineral entries may no longer be made within the Tohono O'Odham Indian Reservation.

[35 FR 9747, June 13, 1970, as amended at 62 FR 65378, Dec. 12, 1997]

§ 3825.1 Mining locations in Tohono O'Odham Indian Reservation in Arizona.

(a) The procedure in the location of mining claims, performance of annual labor and the prosecution of patent proceedings therefor shall be the same as provided by the United States mining laws and regulations thereunder, with the additional requirements prescribed in this section.

(b) In addition to complying with the existing laws and regulations governing the recording of mining locations with the proper local recording officer, the locator of a mining claim within the Tohono O'Odham Indian Reservation shall furnish to the superintendent or other officer in charge of the reservation, within 90 days of such location, a copy of the location notice, together with a sum amounting to 5 cents for each acre and 5 cents for each fractional part of an acre embraced in the location for deposit with the Treasury of the United States to the credit of the Tohono O'Odham Tribe as yearly rental. Failure to make the required annual rental payment in advance each year until an application for patent has been filed for the claim shall be deemed sufficient grounds for invalidating the